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Establishment of the International Criminal Court

Letter dated 24 July 2001 from the Permanent Representative of Belgium to the United Nations addressed to the Secretary-General

I have the honour to annex hereto the English, French and Spanish texts of the Common Position concerning the International Criminal Court adopted by the Council of the European Union on 11 June 2001.

I should be grateful if you would have this letter and its annex circulated as a document of the fifty-fifth session of the General Assembly, under agenda item 162, entitled "Establishment of the International Criminal Court".

(*Signed*) Jean **De Ruyt**
Ambassador
Permanent Representative of Belgium to the United Nations

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Annex to the letter dated 24 July 2001 from the Permanent Representative of Belgium to the United Nations addressed to the Secretary-General

THE COUNCIL OF THE EUROPEAN UNION,
Having regard to the Treaty on European Union, and in particular Article 15 thereof,
Whereas:
(1) The consolidation of the rule of law and respect for human rights, as well as the preservation of peace and the strengthening of international security, in conformity with the Charter of the United Nations and as provided for in Article 11 of the EU Treaty, are of fundamental importance to, and a priority for, the Union.
(2) The Statute of the International Criminal Court, adopted by the Rome Conference of Plenipotentiaries, has been signed by 139 and ratified or acceded to by 32 States and will enter into force after the sixtieth instrument of ratification, acceptance, approval or accession is deposited.
(3) The principles of the Rome Statute of the International Criminal Court, as well as those governing its functioning, are fully in line with the principles and objectives of the Union.
(4) The serious crimes within the jurisdiction of the Court are of concern for all Member States, which are determined to cooperate for the prevention of those crimes and for putting an end to the impunity of the perpetrators thereof.
(5) The Union is convinced that compliance with the rules of international humanitarian law and human rights is necessary for the preservation of peace and the consolidation of the rule of law.
(6) The early entry into force of the Statute is therefore desirable and the Union is committed to making every effort to achieve the required number of instruments of ratification, acceptance, approval or accession, as well as contributing to the full implementation of the Rome Statute.
(7) On 19 November 1998, 6 May 1999 and 18 January 2001, the European Parliament adopted Resolutions on the ratification of the Rome Treaty to establish the permanent International Criminal Court; and on 8 May 2001, the Commission submitted to the European Parliament and the Council its Communication on the European Union's role in promoting human rights and democratisation in third countries.
(8) The Final Act of the Rome Conference has established a Preparatory Commission mandated to elaborate proposals for adoption by the Assembly of States Parties, including instruments needed for the practical functioning of the Court.
(9) The agreement reached on the Rome Statute represents a delicate balance between different legal systems and interests, and the successful finalisation of the first draft instruments on Elements of Crime and on Rules of Procedure and Evidence completed by 30 June 2000 by the Preparatory Commission was achieved with full respect for the integrity of the Statute, to which all Member States are committed.
(10) The Union recognises that the principles and rules of international criminal law embodied in the Rome Statute should be taken into account in other international legal instruments.
(11) The Union is convinced that universal adherence to the Rome Statute is desirable for the full effectiveness of the International Criminal Court and, to this end, considers that initiatives to enhance the acceptance of the Statute are to be encouraged, provided they are consistent with the letter and spirit of the Statute.
(12) The effective establishment of the Court and the implementation of the Statute requires practical measures that the European Union and its Member States should fully support,
HAS ADOPTED THIS COMMON POSITION:

Article 1
1. The establishment of the International Criminal Court, for the purpose of preventing and curbing the commission of the serious crimes falling within its jurisdiction, is an essential means of promoting respect for international humanitarian law and human rights, thus contributing to freedom, security, justice and the rule of law as well as contributing to the preservation of peace and the strengthening of international security, in accordance with the purposes and principles of the Charter of the United Nations.
2. The objective of this Common Position is to pursue and support an early entry into force of the Rome Statute and the establishment of the Court.

Article 2
1. In order to contribute to the objective of an early entry into force of the Statute, the European Union and its Member States shall make every effort to further this process by raising the issue of the widest possible ratification, acceptance, approval or accession to the Rome Statute and the implementation of the Statute in negotiations or political dialogues with third States, groups of States or relevant regional organisations, whenever appropriate.
2. The Union and its Member States shall contribute to an early entry into force and implementation of the Statute also by other means, such as by adopting initiatives to promote the dissemination of the values, principles and provisions of the Rome Statute and related instruments.
3. The Member States shall share with all interested States their own experiences on the issues related to the implementation of the Statute and, when appropriate, provide other forms of support to that objective.

Article 3
The Union and its Member States shall give support, including practical support, to the early establishment and good functioning of the Court. They shall support the early creation of an appropriate planning mechanism in order to prepare the effective establishment of the Court.

Article 4
The Council shall, where appropriate, coordinate measures by the European Union and Member States for the implementation of Articles 2 and 3.

Article 5
The Council notes that the Commission intends to direct its action towards achieving the objectives and priorities of this Common Position, where appropriate by pertinent Community measures.

Article 6
During negotiations of the instruments of, and in carrying out the work provided for in Resolution F of the Final Act of the Rome Diplomatic Conference of Plenipotentiaries, Member States shall contribute to the early finalisation of these instruments and shall support solutions that are consistent with the letter and the spirit of the Rome Statute, taking into account the need for ensuring the widest possible participation thereto.

Article 7
The Council shall review this Common Position every six months.

Article 8
This Common Position shall take effect from the date of its adoption.

Article 9
This Common Position shall be published in the Official Journal.

Done at Luxembourg, 11 June 2001.

For the Council
The President
A. Lindh